

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

CHRISTOPHER DEFEO,

Plaintiff,
-against-

16 CV 5150 (SJF)(SIL)

**DECLARATION IN SUPPORT OF
SUMMARY JUDGMENT**

GUY LEIBSTEIN, and ADCOMM,

Defendants.

-----X

**DECLARATION OF JOSEPH FERRANTE IN SUPPORT OF MEMORANDUM OF LAW OF
MOTION OF DEFENDANTS, GUY LEIBSTEIN AND ADCOMM FOR SUMMARY
JUDGMENT.**

JOSEPH FERRANTE, ESQ., declares under penalty of perjury and pursuant to 28 U.S.C. §1764 that the following facts are true:

1. That I am an attorney at law duly admitted to practice law before the Courts of the State of New York and in the United States District Court for the Eastern District of New York.
2. I am co-counsel with Michael Alber, Esq. and we are attorneys for defendants Guy Leibstein and Adcomm in this matter and, as such, I am fully familiar with the facts and circumstances of this action based upon my participation in the defense of this action and upon my review of the contents of the files thus far.
3. I respectfully submit this declaration in support of Defendants' Memorandum of Law and supporting papers for the instant motion for summary judgment dismissing Plaintiff's Complaint in its entirety pursuant to Rule 56 of the Federal Rules of Civil Procedure because there are no triable issues of facts and all Defendants are entitled to judgment as a matter of law.
4. Plaintiff commenced the instant action on September 15, 2015 upon filing his Summons and Complaint in the United States District Court for the Eastern

District of New York. Plaintiff then filed an Amended Summons and Complaint on November 18, 2015. Defendants joined issue on February 9, 2016. (Copies of these pleadings are annexed collectively as Exhibit "A").

5. Between July 30, 2015 and September 22, 2015, the Suffolk County Police Department prepared several documents memorializing the arrest of Plaintiff Christopher Defeo. (Copies of these documents are annexed collectively as Exhibit "B").
6. On January 30, 2016, Suffolk County Police officer David Leath provided a statement to the Internal Affairs Bureau regarding his participation in this case. (A copy of that statement is annexed here as Exhibit "C").
7. On February 1, 2016, Suffolk County Police Officer Dane Flynn provided a statement to the Internal Affairs Bureau regarding his participation in this case. (A copy of that statement is annexed here as Exhibit "D").
8. On April 17, 2017, Defendant Guy Leibstein provided a sworn affidavit to this court. (A copy of that sworn affidavit is annexed here as Exhibit "E").
9. On April 26, 2017, Plaintiff Christopher Defeo provided a sworn affidavit to this court. (A copy of that sworn affidavit is annexed here as Exhibit "F").
10. On March 8, 2018, Plaintiff Christopher DeFeo testified at an examination before trial. (A copy of Defeo's deposition transcript is annexed as Exhibit "G").
11. On March 8, 2018, Defendant Guy Leibstein testified at an examination before trial. (A copy of Leibstein's deposition transcript is annexed as Exhibit "H").
12. On March 8, 2018, Police officer Dane Flynn testified at an examination before trial. (A copy of Officer Flynn's deposition transcript is annexed as Exhibit "I").
13. On March 8, 2018, Police Officer Bryan Metty testified at an examination before trial. (A copy of Officer Metty's deposition transcript is annexed as Exhibit "J").
14. Between September 22, 2015 and November 14, 2016 Plaintiff Christopher Defeo or his counsel appeared in the District Court of Suffolk County in the case of People v. Christopher DeFeo, Docket Number CR-38628-15SU. (A copy of certified transcriptions for each and every date except one at annexed here collectively as Exhibit "K") (the missing date is from March 14, 2016 and the court reporter has retired and my office is continuing to attempt to get it).

Based upon the forgoing documents and Defendants' Rule 56.1 Statement and Memorandum of Law, the Defendants respectfully request that the Court issue an order pursuant to Rule 56 of the Federal Rules of Civil Procedure dismissing Plaintiff's Complaint in its entirety.

Dated: Hauppauge, New York

August 24, 2018

/ s /

Joseph Ferrante
Keahon, Fleischer & Ferrante
1393 Veterans Highway
Suite 312 North
Hauppauge, New York 11788
(631) 361-5360
(631) 361-5365 (facsimile)
joefesq@gmail.com

To: Ryan Lozar, Esq.
VIA ECF